

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JUSTIN W. STAPLETON,

Plaintiff,

v.

Case No. 21-C-124

DCO SANTOS, et al.,

Defendants.

DECISION AND ORDER

Defendant Justin Stapleton, a prisoner at Green Bay Correctional Institution, is representing himself in this 42 U.S.C. §1983 action. He is proceeding on an Eighth Amendment claim based on assertions that Defendant correctional officers Santos and Bester were deliberately indifferent to his serious medical condition when they delayed helping him after he slipped and hit his head. Dkt. No. 11. On November 29, 2021, Stapleton filed a motion to add a John Doe defendant based on his allegations that, after he yelled for help, another inmate pushed his emergency call button and informed the Doe officer that Stapleton had fallen and hit his head. According to Stapleton, the Doe officer responded, “good for him.” Dkt. No. 1 at 3; Dkt. No. 42.

The Court will deny Stapleton’s motion because he fails to state a claim against the John Doe officer. The officer’s flippant and fleeting quip in response to Stapleton’s circumstances is insufficient on its own to state a claim. *See Beal v. Foster*, 803 F.3d 356, 358 (7th Cir. 2015) (“most verbal harassment by jail or prison guards does not rise to the level of cruel and unusual punishment”). And, even assuming the Doe officer did nothing to address Stapleton’s needs, Stapleton was not harmed by the officer’s inaction. According to Stapleton, Bester and Santos

went to his cell to investigate why he was yelling. As such, Stapleton received the very relief (follow up from correctional officers) that the Doe officer working in the control center was able to provide. *See* Dkt. No. 1 at 3. Because Stapleton is unable to show that he was injured as a result of the Doe officer's conduct, he fails to state a claim against him. *See Gabb v. Wexford Health Sources, Inc.*, 945 F.3d 1027, 1032 (7th Cir. 2019) ("In order to succeed in a § 1983 suit, a plaintiff must 'establish not only that a state actor violated his constitutional rights, but also that the violation *caused* the plaintiff injury or damages.'").

IT IS THEREFORE ORDERED that Stapleton's motion to add a John Doe defendant (Dkt. No. 42) is **DENIED**.

Dated at Green Bay, Wisconsin this 6th day of December, 2021.

s/ William C. Griesbach

William C. Griesbach
United States District Judge